

REMARKS

Claims 1-10 are all the claims pending in the present application. Claims 1-10 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Claims 1-10 are also rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by McCanne (U.S. Patent No. 6,611,872). Finally, claims 1 and 7-10 are provisionally rejected on the ground of non-statutory double patenting over claims 1 and 7-8 of co-pending Application No. 11/166,212 (Sughrue Ref. No. Q88441, Alcatel Ref: No. 120928), hereinafter referred to as App '212.

§ 112, Second Paragraph, Rejections - Claims 1-10

Applicants believe that the Examiner's rejections under 35 U.S.C. § 112, second paragraph, should be withdrawn

§ 102(e) Rejections (McCanne) - Claims 1-10

Claims 1-10 are rejected based on the reasons set forth on pages 3-4 of the Office Action. Applicants traverse these rejections at least based on the following reasons.

McCanne is directed to an overlay protocol and system for allowing multicast routing in the Internet to be performed at the application level. The overlay protocol uses "native" Internet multicast and multicast routing protocols to route information, according to overlay routing tables. Overlay groups are mapped to native multicast groups to exploit native multicasting in regional or local forwarding domains. Use of the overlay protocol allows overlay distribution to be handled in a more intelligent and bandwidth-managed fashion. Overlay routers are placed at each of several local area networks, Internet service provider's point of presence, enterprise, or other cohesively-managed locations. The overlay computers are configured according to

bandwidth and security policies, and perform application-level multicast distribution across the otherwise disjoint multicast networks by using the overlay routing. The result is an overlay multicast network that is effectively managed according to local network management policies. Application-level control can be applied to the transferred data at the overlay routers. *See Abstract of McCanne.*

With respect to independent claim 1, Applicants submit that McCanne does not disclose or suggest at least, “receiving one or more diversity parameters defining one or more diversities between said connection and a further connection via a second serving edge node of said serving network, wherein said first serving edge node and said second serving edge node are different serving edge nodes” as recited in claim 1. The Examiner cites col. 11, line 51 - col. 12, line 4 of McCanne as allegedly satisfying the above-quoted feature, simply because McCanne discusses the exchange of connection parameters. Applicants submit that nowhere, according to Applicants’ understanding, does McCanne disclose or suggest the receipt of one or more diversity parameters that define one or more diversities (or differences) between the connection with a first serving edge node in a serving network and a further connection with a second serving node of the serving network. The alleged exchange of connection parameters in McCanne does not necessarily denote diversity parameters defining differences between one connection via one edge node and a different connection via a second serving edge node. In fact, any exchange of connection parameters in McCanne could be the exchange of parameters that define similarities between different connections. Therefore, at least based on the foregoing, Applicants submit that McCanne does not anticipate claim 1.

Applicants submit that independent claims 7-10 are patentable at least based on reasons similar to those set forth above with respect to claim 1, as claims 7-10 recite features similar to those discussed above with respect to claim 1.

Applicants submit that dependent claims 2-6 are patentable at least by virtue of their indirect or direct dependencies from independent claim 1.

Provisional Double Patenting Rejections - Claims 1 and 7-10

Claims 1 and 7-10 are provisionally rejected based on the reasons set forth on page 5 of the Office Action.

Applicants respectfully request that the Examiner hold this rejection in abeyance until the other pending application issues as a patent. Specifically, according to MPEP § 804 I.B., if a provisional double patenting rejection in one application is the only rejection remaining, then the Examiner should withdraw the provisional rejection and permit that application to issue as a patent, thereby converting the provisional double patenting rejection in the other application, i.e., App '212, into a bona fide double patenting rejection at the time the one application issues as a patent. Therefore, if all other claim rejections are withdrawn in the present application, claims 1 and 7-10 should be found allowable and the present application should be permitted to issue as a patent.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
Application No.: 10/766,841

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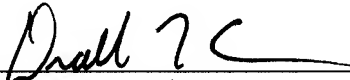
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